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**TRANSMITTAL
FORM**

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Applicati n Number

09/714,882

Filing Dat

Nov 16, 2000

First Named Inv nt r

Turner, Jr., C. Alexander

Group Art Unit

1645

Examiner Name

To Be Assigned

Total Number of Pages in This Submission

4

Attorney Docket Number

LEX-0091-USA

ENCLOSURES (check all that apply)☐ Fee Transmittal Form☐ Fee Attached☒ Amendment / Reply
(Restriction)☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority
Document(s)☐ Response to Missing Parts/
Incomplete Application☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53☐ Assignment Papers
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
Provisional Application☐ Power of Attorney, Revocation
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ After Allowance Communication
to Group☐ Appeal Communication to Board
of Appeals and Interferences☐ Appeal Communication to Group
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please
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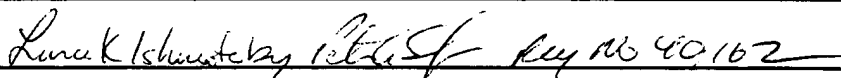
Remarks

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PATENT, TRADEMARK OFFICE

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENTFirm
or
Individual nameLance K. Ishimoto Reg. No. 41,866
Lexicon Genetics Incorporated

Signature



Date

February 27, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date: February 27, 2002

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ORIGINAL PAPERS
ORIGINALLY FILED

04-03-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): *Turner et al.*

Group Art Unit: 1646

Application No.: 09/714,882

Examiner: O'Hara, E.B.

Filed: November 16, 2000

Attorney Docket No.:

LEX-0091-USA

Title: Novel Human *Notch* Ligand Proteins
and Polynucleotides Encoding the Same

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RESPONSE TO RESTRICTION AND ELECTION REQUIREMENTS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The Examiner is respectfully requested to accept the following response to the Restriction and Election Requirement mailed January 30, 2002 (Paper No. 8), to consider the remarks therein.

Restriction Requirement

The Examiner has determined that the original claims are directed to five separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claims 1 and 2, said to be drawn to nucleic acid molecules comprising SEQ ID NO:1 encoding the amino acid sequence of SEQ ID NO:2, classified in class 536, subclass 23.5.
- Group II: Claim 3, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:4, classified in class 536, subclass 23.5.
- Group III: Claim 4, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:6, classified in class 536, subclass 23.5.

Group IV: Claim 5, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:8, classified in class 536, subclass 23.5.

Group V: Claim 6, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:10, classified in class 536, subclass 23.5.

Response to Restriction and Election Requirement

In response to the Restriction Requirement mailed January 30, 2002 (Paper No. 8), Applicants elect with traverse to prosecute the claims of Group I, comprising Claims 1 and 2, said to be drawn to nucleic acid molecules comprising SEQ ID NO:1 encoding the amino acid sequence of SEQ ID NO:2, classified in class 536, subclass 23.5. Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

Applicants' traverse is respectfully based on the fact that the nucleic acid sequences described (and the amino acid sequences encoded by them) represent splice variants encoded by a single genetic locus. All of the claims in the present invention read on splice variants of a novel human notch protein. One skilled in the art would therefore agree that the sequences share a common utility as well as substantial structural features. In addition, by searching SEQ ID NO:1 (and the amino acid sequence it encodes, SEQ ID NO:2), the Examiner will have effectively searched all of the nucleic acid sequences of the present invention, as nucleic acid sequences of SEQ ID NOS: 3, 5, 7 and 9 are all contained within the nucleic acid sequence of SEQ ID NO:1 and therefore it is Applicants' position that such a search, involving only a single nucleic acid sequence and the amino acid sequence encoded by it, does not represent an undue burden. Applicants believe that SEQ ID NOS: 1, 3, 5, 7 and 9 are more properly viewed as species and thus Applicants further elect the species of SEQ ID NO: 1 for initial examination on the merits. Elected Claims 1 and 2 read on the elected species. Applicants understand their species election is being made solely to expedite examination of the application, and that they are entitled to consideration of additional species upon allowance of a generic claim.

Although Applicants believe that no additional fees are due in connection with this response, the Commissioner is authorized to charge any underpayment or credit any overpayment required with this response to Deposit Account No. 50-0892.

Conclusion

The present document is a complete response to the Restriction and Species Election Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should the Examiner have any questions or comments a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

02/27/02
Date

Lance K. Ishimoto by ALG/Ed Payne 40,162
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